

**REMARKS**

Claims 1-20 are pending.

**I. The Restriction Requirement and Applicant's Provisional Election**

The Examiner required restriction, under 35 U.S.C. §§ 121, 372, between the following Groups as these inventions or groups of inventions allegedly are not so linked as to form a single general inventive concept under PCT Rule 13.1. Office action, page 2.

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|-----------|---|
| Group I   | claims 1-8, 12, 13 and 15, drawn to a substantially purified polypeptide (claims 1 and 2), an isolated and purified polynucleotide encoding the polypeptide of claim 1 (claims 3-6), an expression vector comprising at least a fragment of the polynucleotide of claim 3 (claim 12), and a host cell comprising the expression vector (claim 13), and a pharmaceutical composition comprising the polypeptide of claim 1 (claim 15), and a method for detecting a polynucleotide (claims 7 and 8). |
| Group II  | claims 9-11, drawn to an isolated and purified polynucleotide.  |
| Group III | claim 14, drawn to a method for producing a polypeptide.  |
| Group IV  | claims 16-18, drawn to a purified antibody which specifically binds to the polypeptide of claim 1 (claim 16), a purified agonist of the polypeptide of claim 1 (claim 17), and a purified antagonist of the polypeptide of claim 1 (claim 18).  |
| Group V   | claim 19, drawn to a method for treating or preventing a disorder associated with decreased expression or activity of RNAAP.  |
| Group VI  | claim 20, drawn to a method for treating or preventing a disorder associated with decreased expression or activity of RNAAP.  |

The Examiner further required election of single polypeptide or polynucleotide sequence. Office action, page 5.

In response, Applicants hereby provisionally elect, with traverse, Group I, claims 1-8, 12, 13 and 15, drawn to a substantially purified polypeptide (claims 1 and 2), an isolated and purified polynucleotide encoding the polypeptide of claim 1 (claims 3-6), an expression vector comprising at least a fragment of the polynucleotide of claim 3 (claim 12), and a host

cell comprising the expression vector (claim 13), and a pharmaceutical composition comprising the polypeptide of claim 1 (claim 15), and a method for detecting a polynucleotide (claims 7 and 8).

Applicants further elect, with traverse, the polypeptide sequence identified as SEQ ID NO:12.

**II. The Polynucleotides Of Group I And The Polynucleotides Of Group II Exhibit A Common Special Technical Feature**

Applicants traverse the restriction requirement because “nucleotide sequences encoding the same protein are considered to satisfy the unity of invention standard and will continue to be examined together.” MPEP § 1850. Group I is drawn, in part, to polynucleotides which encode the polypeptides of claim 1. Likewise, although drawn to individual sequences, the claims of Group II are directed to polynucleotides which encode the polypeptides of claim 1. *See, e.g.,* page 16, lines 6-10, of the Application, and Table 1, pages 53-56.

Accordingly, Applicants respectfully request claims 9-11, of Group II, be rejoined with claims 1-8, 12, 13 and 15, of Group I, so that the claims may be examined together. Specifically and in view of the election of the polypeptide depicted in SEQ ID NO:12, Applicants request rejoinder of claims 9-11, as drawn to polynucleotides of SEQ ID NO:37, with the elected claims drawn to polynucleotides which encode the polypeptides of SEQ ID NO:12.

At the very least, Applicants propose that claims 3-6 and 9-13 should be examined together as a separate group, as each is drawn to compositions comprising the taught polynucleotides. Applicants would consider electing such a group if the Examiner were to chose to issue a new restriction requirement.

**III. The Search Of Groups I and II Is Not Unduly Burdensome**

Applicants also traverse the restriction requirement on the grounds that the search and examination of at least Groups I and II is not unduly burdensome. According to MPEP

section 803 "if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." As the polynucleotides of Group II are merely a species of the genus of polynucleotides of Group I, Applicants suggest examination of at least Groups I and II can be made without serious burden. *See, e.g.*, page 16, lines 6-10, of the Application, and Table 1, pages 53-56 (teaching the polynucleotides of SEQ ID NO:37 encode the polypeptides of SEQ ID NO:12).

In particular, as Applicants have elected Group I, as drawn to the polypeptide of SEQ ID NO:12, it is respectfully requested that claims 9-11 of Group II, as drawn to the polynucleotides of SEQ ID NO:37, be rejoined with claims 1-8, 12-13 and 15 of Group I.

#### **IV. Conclusion**

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

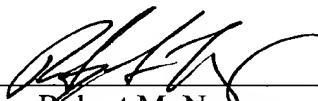
If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

Respectfully submitted,

Date Sep 1, 2004  
FOLEY & LARDNER LLP

**Customer Number: 22428**  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5143  
Telephone: (202) 295-4024  
Facsimile: (202) 672-5399

By



Robert M. Norway  
Attorney for Applicant  
Registration No. 54,608